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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,717	09/05/2003	Peiguang Zhou	KCC-19188	8792

7590

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EXAMINER
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KRUER, KEVIN R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/655,717

Applicant(s)

ZHOU, PEIGUANG

Examiner

Kevin R. Kruer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-35 and 44-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-35 and 44-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

*Claims 61-65 were inadvertently excluded from the 35 U.S.C. 103(a) rejection of 9-22-2005. This action is non-final in view of said oversight.*

*The examiner notes claims 33-35 have incorrect status identifiers. Each claim should be labeled "original."*

### ***Double Patenting***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 18-35 and 44-65 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6,872,784 in view of WO 02/053688 (herein referred to as Kimberly Clark).

Patent '784 claims the adhesive claimed in the pending claims. Patent'784 does not teach the claimed laminate structure. However, Kimberly Clark teaches the claimed structural limitations of pending claims 18-35 and 44-65. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the laminates taught in Kimberly Clark utilizing the adhesive claimed in Patent '784. The motivation for doing so would have been that said composition is taught to be suitable for use in absorbent articles. The examiner notes the claimed 180°C static peel strength and dynamic peel strength are understood to be latent properties of the laminate structure rendered obvious by the prior art.

***Claim Rejections - 35 USC § 103***

3. Claims 18-35 and 44-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/053668 (herein referred to as Zhou) in view of Lakshmann et al (US 4,857,594).

Zhou teaches a laminate structure comprising a first and second facing layers and an adhesive comprising selected ratios of crystalline and atactic polyolefin (abstract). The atactic polymer has a degree of crystallinity of below 20% (page 4, lines 24+), a molecular weight to 1,000-3,0000 (page 4, lines 25+), and comprises 50-90wt% of the composition. The crystalline polymer has a crystallinity of 40% or greater (page 6, lines 1+), a molecular weight of 3,000-200,000, and comprises 5-50wt% of the composition (page 6, lines 9+). The composition may further comprise up to 50% tackifier, anti-oxidizing agent, pigment, fillers, compatibilizer, and the like (page 23, lines 8+). The first and second layers may comprise non-woven materials. Alternatively, the two substrates may comprise a single sheet (page 7) or elastomeric (periodic or non-periodic) polymer strands (example 6). Said laminate may comprise a personal care garment such as a diaper or other absorbent structure taught in the prior art (page 23, lines 28+ and top of page 21). The laminate preferably has a static peel failure time of at least 8 hours (claim 26), an open time up to 1 second (claim 38), and a relative accretion value of less than 0.2 (claim 30).

Zhou teaches all the claim limitations with the exception of the addition of an elastomeric base polymer to the adhesive. However, Lakshmanan teaches the addition of a selectively hydrogenated block copolymer to an amorphous polyolefin adhesive

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(abstract) in order to improve its adhesion to polyolefin substrates (col 1, lines 48+).

The block copolymer may comprise SEBS or SIS (col 3, lines 59+). The styrene content is 5-50wt% (col 4, lines 13+). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add sufficient amounts of such block copolymers to the adhesive taught in Zhou such that the adhesive has improved adhesion to polyolefin substrates.

The examiner notes the claimed 180°C static peel strength and dynamic peel strength are understood to be latent properties of the laminate structure rendered obvious by the prior art. Furthermore, the examiner notes the adhesive of Zhou meets said limitations (see examples).

### ***Response to Arguments***

Applicant's arguments filed November 16, 2005 have been fully considered but they are not persuasive.

Applicant argues the examiner erroneously implies that the claims 1-12 of the '784 patent teach the use of the claimed adhesive in an absorbent article. The examiner never took said position. The claims teach the adhesive is useful for bonding an elastomeric layer to a substrate. Such laminate structures are common in absorbent articles such as the article taught in Kimberly Clark. Thus, the rejection is maintained.

With respect to the rejection of claims as being obvious over WO02/053668 (Zhou) in view of US 4,585,594, Applicant argues Zhou teaches away from adding an elastomer or other conventional components to the adhesive taught therein because the reference teaches the adhesive "generally performs better and costs less than

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conventional hot melts (page 3 lines 4-5)" such as styrene block copolymers (page 14). Said argument is noted but is not persuasive. Lakshmanan teaches that one of ordinary skill in the art at the time the invention was made would have expected a synergistic effect when adding the hydrogenated SEBS or SIS block copolymers. Specifically, Lakshmanan teaches adding such block copolymers to polyolefin adhesives improves adhesion to polyolefin substrates (col 1, lines 48+). Thus, the examiner maintains the position that the prior art as a whole would have motivated one of ordinary skill in the art to combine the block copolymer taught in Lakshmanan to the polyolefin adhesive of Zhou.

Applicant further argues there is no suggestion to combine said reference in order to obtain an adhesive which yields the unique combination of high static peel strength and high dynamic peel strength after 85% stretch. The examiner notes the adhesive of Zhou meet said limitation (see page 40, example 5) and there is no reason one of ordinary skill in the art would expect the elastomeric component to degrade said property of the adhesive. Applicant argues Table 1 of the specification demonstrates unexpected results with respect to said dynamic peel strength. Said data has been fully considered but is not persuasive. The examiner disagrees with applicant's conclusion that the APAO (amorphous poly-alpha olefin) adhesive is analogous to the adhesive of US'954. There is no evidence of record that said adhesive contains an elastomer. Furthermore, said data fails to demonstrate that one of ordinary skill in the art would not have expected the claimed adhesive to exhibit the claimed dynamic peel strength. To the contrary, the adhesive of Zhou is taught to meet said limitation.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R. Kruer whose telephone number is 571-272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin R. Kruer  
Patent Examiner-Art Unit 1773